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**IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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In re

RASPBERRY CREEK FABRICS, LLC,

Debtor.

Bankruptcy No. 23-23514 (KRA)

Chapter 11

(Subchapter V)

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**STIPULATION RESOLVING SBA'S POTENTIAL OBJECTION TO  
CONFIRMATION OF PLAN AND MOTION TO APPROVE  
STIPULATION**

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Raspberry Creek Fabrics, LLC, the debtor and debtor-in-possession (the "Debtor") in the above-captioned chapter 11 bankruptcy case (the "Case") and creditor United States Small Business Administration (the "SBA"), through their respective undersigned counsel, stipulate and agree as follows:

**I. JURISDICTION AND PROCEDURAL HISTORY**

1. The Court has jurisdiction over this stipulation and joint motion (the "Motion" or "Stipulation") pursuant to 28 U.S.C. §§ 157 and 1334.
2. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
3. Venue of the Motion, and the Case, is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The Debtor commenced the Case on August 17, 2023 (the “Petition Date”) by filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

5. On October 16, 2023, the Debtor filed the *Debtor’s Plan of Reorganization dated October 16, 2023* (the “Original Plan”).

6. On October 23, 2023, the Court entered its *Order Granting Debtor’s Ex Parte Motion to: (i) Approve Solicitation Procedures and Deadlines; (ii) Approve Forms of Ballots; and (iii) Establish Deadlines for Voting on and Objecting to Debtor’s Plan* [Docket No. 24] (the “Plan Procedures Order”).

7. Pursuant to the Plan Procedures Order, on October 26, 2023, the Debtor served the Original Plan, a notice of confirmation hearing, and ballots to creditors and parties-in-interest.

8. On October 30, 2023, after the Debtor filed and served the Original Plan, the SBA filed a *Notice of SBA’s Election to have Claim Treated Under 11 U.S.C. § 1111(b)(2)* (the “Notice of Election”).

9. The Notice of Election required the Debtor to modify its treatment of the SBA under the Plan. Accordingly, on November 20, 2023, the Debtor filed the *Debtor’s Plan of Reorganization dated November 20, 2023* [Docket No. 34] (the “Amended Plan”).

10. The Amended Plan modified the treatment of the SBA’s Class 4 Secured Claim, such that the SBA’s Class 4 Secured Claim would be paid in accordance with the loan documents governing the Class 4 Secured Claim. The modification to the treatment of the SBA’s Class 4 Secured Claim results in increased “Plan Payments” to other creditors, including Class 2 General Unsecured Creditors.

11. On November 27, 2023, the SBA notified the Debtor that Amended Plan's treatment of the SBA's Class 4 Secured Claim did not fully resolve the SBA's concerns with the Plan.

12. The Parties have engaged in arms-length and good faith discussions, exchanges of information and negotiations relating to the Amended Plan, regarding the SBA's claim and regarding resolution of other respective rights, obligations, claims, issues and disputes with respect to the Amended Plan.

## **II. TERMS OF STIPULATION**

13. The Debtor and the SBA have entered into this Stipulation to resolve any potential objection by the SBA to the Amended Plan.

14. Specifically, the Debtor and the SBA have agreed that the order confirming the Amended Plan will modify and replace the last sentence in Section 4.4(b) of the Amended Plan as follows:

The Debtor's monthly payments to the SBA will continue after the term of the Plan until the maturity date of the SBA Secured Claim, which is October 14, 2050, at which time the entire balance of principal and interest then outstanding shall be due and payable.

15. The purpose of the amendment is to ensure that a small pre-Effective Date balance owing to the SBA on behalf of its Class 4 Secured Claim is paid in full.

16. The SBA has agreed to accept the Debtor's Plan as modified by this Stipulation, both with respect to its Class 2 and Class 4 Claims.

17. The Parties request that the Court approve the Stipulation in any order confirming the Debtor's Amended Plan.

## **III. STIPULATION AND REQUEST FOR RELIEF**

18. The Parties ask the Court to approve this Stipulation and to grant the relief requested hereunder.

19. Conditioned upon approval of this Stipulation and the Debtor including the language agreed upon herein in the order confirming the Amended Plan, the SBA hereby accepts the Amended Plan.

#### **IV. BASIS FOR RELIEF REQUESTED**

20. Each of the parties reserves the right to file a separate memorandum of points and authorities in support of this Stipulation and/or a reply in support hereof to the extent any party-in-interest objects to the relief requested herein.

Dated: November 27, 2023

**COHNE KINGHORN, P.C.**

/s/ Jeffrey Trousdale

GEORGE HOFMANN

JEFFREY TROUSDALE

Attorneys for the Debtor

**UNITED STATES SMALL BUSINESS  
ADMINISTRATION**

/s/ John Gygi

JOHN GYGI (signed with permission)

Attorneys for the SBA

### CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2023, I caused to be electronically filed the foregoing Motion with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system:

**By Electronic Service:** I certify that the parties of record in this case as identified below, are registered CM/ECF users, and will be served notice of entry of the foregoing through the CF/ECF System:

- **John S. Gygi** john.gygi@sba.gov
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- **United States Trustee** USTPRegion19.SK.ECF@usdoj.gov

**By U.S. Mail:** In addition to the parties of record receiving notice through the CM/ECF system, the following parties will be served notice pursuant to Fed. R. Civ. P. 5(b).

- ☒ None
- ☐ Manual Notice List:
- ☐ All parties on the Court's official case matrix.

/s/ Jeffrey Trousdale